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June 28, 2010

By ECF

Hon. Faith S. Hochberg
U.S.D.J. - District of New Jersey
Martin Luther King, Jr. Federal Bldg. PO 01
50 Walnut Street
Newark, NJ 07101

Re: *Canavan, et al. v. Harbeck, et al. 10-954 (FSH)*

Dear Judge Hochberg:

We represent the Plaintiffs in the referenced matter. We write to inform the Court of developments in an adversary proceeding pending in the United States Bankruptcy Court for the Southern District of New York commenced by Irving H. Picard, Trustee of Bernard L. Madoff Investment Securities, LLC, against our clients (the “Bankruptcy Action”) on April 9, 2010.

In the Bankruptcy Action, the Trustee sought an emergency temporary restraining order to enjoin the plaintiffs from prosecuting this action. The temporary restraining order was denied by Judge Lifland on April 14, 2010. The Trustee also sought a preliminary injunction to enjoin the plaintiffs from prosecuting this case before Your Honor and a declaration that our clients’ complaint in this action was a violation of the automatic stay and thus void *ab initio*. Our clients vigorously opposed the Trustee’s motion and filed a cross-motion to dismiss the Trustee’s complaint for failure to state a claim and for lack of jurisdiction. The matter was set to be heard on June 29, 2010.

After the Trustee’s motion and our clients’ cross-motion were fully briefed and submitted to the Bankruptcy Court, the Trustee requested an adjournment of the June 29 hearing on the grounds that Your Honor’s ruling on the pending motions to substitute and to transfer might somehow affect the motions pending in the Bankruptcy Court. Over our clients’ written objection, the Bankruptcy Court agreed to adjourn the motions to September 15, 2010.

We bring this to the Court’s attention in the event that Your Honor was waiting for a ruling in the Bankruptcy Action before ruling on the pending motions to substitute and to transfer. We are very anxious to move forward with this case and believe that the Bankruptcy Court has no basis whatsoever to enjoin the prosecution of this case before Your Honor.

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Thank you very much for your continued attention to this matter. Please contact me if you have any questions or require additional information.

Respectfully,

/s/ Helen Davis Chaitman

Helen Davis Chaitman

HDC:leb

cc: Alan S. Naar, Esq. [ANAAR@GREENBAUMLAW.COM]
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